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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,551	06/07/2000	Thomas L. DiStefano III	6676-11	8542

7590 11/08/2004

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EXAMINER
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LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/589,551

Applicant(s)

DISTEFANO, THOMAS L.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-21 have been examined. Application 09/589,551 has a filing date 06/07/2000.

#### *Response to Amendment*

2. In response to Office Action dated 11/28/03, the Applicant filed a request for reconsideration. No claims were added or cancel.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 recites the limitation "the smart agent option". There is insufficient antecedent basis for this limitation in the claim.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-6, 12-14, 16-18 and 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Moore et al (U.S. 6,330,575).

As per claim 1, Moore teaches:

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A method of assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website in order to market the first website at the second website upon the activation of the first website on the Internet, the method comprising:

during design of the first website, receiving information at a user interface indicating a type of an element for marketing that is to be displayed at the second website, and information specifying the second website at which the element is to be displayed (see column 3, lines 30-40; column 8, lines 27-61);

saving the information at a first database that is coupled to the user interface (see column 10, lines 25-59);

obtaining the element for marketing of the type indicated (see column 10, lines 44-59); and

causing the display of the element for marketing at the second website when the first website is activated with respect to the Internet (see column 8, lines 27-60),

wherein the element for marketing includes at least one of a banner advertisement concerning the first website and a link to the first website (see column 6, lines 7-67; figure 16).

As per claim 4, Moore teaches:

The method of claim 1, further comprising:

determining whether a reciprocal site for the display of at least one marketing element of a third party website exists in the first website being designed (see figure 7); and

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creating the reciprocal site for the display of the at least one marketing element of the third party website when the reciprocal site does not yet exist in the first website being designed (see figure 7).

As per claim 5, Moore teaches:

The method of claim 4, further comprising:

when the element for marketing the first website is a banner ad concerning the first website, causing the sequential display at the reciprocal site of the first website of a plurality banner ads respectively concerning a plurality of third party websites, when the first website is activated with respect to the internet (see column 10, line 59 – column 11, line 15; figure 6).

As per claim 6, Moore teaches:

The method of claim 4, further comprising:

when the element for marketing the first website is a link to the first website, causing the display at the reciprocal site of the first website of a plurality of links to the plurality of third party websites, when the first website is activated with respect to the Internet (see column 10, line 59 – column 11, line 15; figure 6).

As per claim 12, Moore teaches:

The method of claim 1, further comprising, prior to receiving the information indicating the type of the element and the information specifying the second website:

providing a first display region on the user interface, the first display region being capable of displaying a plurality of elements (see column 8, lines 28-61);

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receiving a selection of the smart agent option at the user interface, the selection of which is indicative of a desire to establish the arrangement between the first website being designed by the website designer and the second website in order to market the first website at the second website upon the activation of the first website on the internet (see column 8, lines 27-65);

displaying a smart agent menu having a suggested marketing locations option, a create links option and a banner ad rotations option, wherein the create links option and the banner ad rotations option can be selected to indicate the type of the element for marketing (see column 8, lines 27-61; column 10, line 44 – column 11, line 15; figure 13).

As per claim 13, Moore teaches:

A method of assisting a website designer in establishing an e-commerce feature on a first website being designed by the website designer for access by third parties upon the activation of the first website on the Internet, the method comprising:

receiving at a user interface a selection of the e-commerce feature that is desired to be implemented on the first website, wherein the e-commerce feature is at least one of a shopping cart and an auction (see column 7, lines 60-67; column 8, lines 40-55);

receiving at the user interface information concerning a picture of a product desired to be sold using the e-commerce feature (see figure 7);

receiving at the user interface information concerning a written description of the product (see figures 7-10);

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receiving at the user interface information concerning a price of the product (see figures 15 and 16);

receiving at the user interface information concerning an identification number of the product (see figures 15 and 16); and

when the first website is activated on the Internet, displaying the e-commerce feature on the first website, wherein display of the e-commerce feature includes the display of at least some of the picture, written description, price and identification information of the product (see figure 16).

As per claim 14, Moore teaches:

The method of claim 13, further comprising, prior to receiving at the user interface the selection of the e-commerce feature that is desired to be implemented:

displaying a list of at least one of a plurality of shopping carts and a plurality of auctions (see figure 16).

As per claim 16, Moore teaches:

The method of claim 13, wherein the information concerning the picture of the product is uploaded from a memory device at a website designer computer, and wherein the information concerning the written description, price and identification number of the product is received at the user interface into a form field (see figure 15).

As per claim 17, Moore teaches:

The method of claim 13, further comprising, after the receiving of the information concerning the identification number of the product:

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prompting for an input of a merchant account identifier (see column 11, lines 62-67);

when the merchant account identifier is received, saving the information concerning the selected e-commerce feature, the received information concerning the picture, written description, price and identification number of the product, and the merchant account identifier (see column 12, lines 1-46);

when an indication that no merchant account identifier exists is received, providing a merchant account information form, receiving merchant account information at the user interface, and sending the merchant account information to a merchant account vendor, wherein, the e-commerce feature is only displayed on the internet when both the first website is activated on the internet and the merchant account identifier has been received (see column 11, line 60 – column 12, line 45).

As per claim 18, Moore teaches:

The method of claim 13, further comprising:

providing a first display region on the user interface, the first display region being capable of displaying a plurality of elements (see figure 9);

displaying the selected e-commerce feature including at least some of the information concerning the picture, written description, price and identification number of the product on the first display region, wherein the first display region is capable of displaying the e-commerce feature in an interactive manner (see figures 10-13).

Claim 19 contains the same limitations as claim 1 therefore the same rejection is applied.



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Claim 20 contains the same limitations as claim 13 therefore the same rejection is applied.

As per claim 21, Moore teaches:

An internet-based system for assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website in order to market the first website at the second website upon the activation of the first website on the Internet, the system including:

a server computer accessible by a plurality of registered user computers and a plurality of unregistered computers using the Internet (see column 6, lines 12-23; column 8, lines 29-55).

receives at a user interface displayed at one of the registered user computers information indicating a type of an element for marketing that is to be displayed at the second website, and information specifying the second website at which the element is to be displayed (see column 8, lines 27-61; column 10, line 44 – column 11, line 15);

saves the information at a first database that is coupled to the server computer (see column 8, lines 27-61);

obtains an element for marketing (see column 8, lines 27-61; column 10, line 44 – column 11, line 15);

hosts the second website (see column 8, lines 39-53);

activates the first website on the Internet by hosting the first website on the Internet (see column 8, lines 27-61; column 10, line 44 – column 11, line 15);

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provides a web page of the second website to one of the unregistered computers (see column 6, lines 12-44); and

displays the element for marketing on the web page (see column 8, lines 27-61; column 10, line 44 – column 11, line 15).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al (U.S. 6,330,575) in view of Wexler (U.S. 5,960,409).

As per claim 2, Moore fails to teach:

The method of claim 1, further comprising, prior to receiving the information indicating the type of the element and the information specifying the second website:

receiving at the user interface information concerning at least one of the website designer, a business of the website designer, and the first website;

performing a search of information on a second database having information concerning at least one of a plurality of third party website designers, a plurality of third party businesses and a plurality of third party websites;

identifying from the search at least one third party website to which the first website should be coupled for marketing purposes; and

providing information concerning the at least one third party website at the user interface.

However, Wexler teaches that "advertisers may wish to advertise at more than one location, i.e., more than one banner-publishing site. If so, the advertiser will presumably want to know, among other statistics, the effectiveness of each of the publishing sites, i.e., which site generates the most visits to the advertiser's Web site. Likewise, a banner-publishing site may wish to display the advertising, i.e., banner, of more than one advertiser" (see column 5, lines 24-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Moore would use the Wexler system to search for third party websites which would be desirable to have the advertisements displayed. This feature would increase the probability that the advertisements would be viewed by the intended target.

As per claim 3, Moore fails to teach:

The method of claim 1, further comprising  
during design of the first website, receiving information specifying a plurality of additional third party websites at which it is desirable to have the element displayed;  
saving the information at the first database and causing the display of the element for marketing at each of the plurality of additional third party websites when the first website is activated with respect to the Internet.

However, the same rejection applied to claim 2 is applied to claim 3.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al (U.S. 6,330,575) in view of Hess et al (U.S. 6,058,417).

As per claim 15, Moore fails to teach:

The method of claim 13, wherein the e-commerce feature that is selected is an auction, and the information concerning the price of the product concerns a reserve price. However, Hess teaches the creation of an auction site (see figure 6B). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Moore would use his Website creation tool to design an electronic commerce auction site, as taught Hess. The auction site would be another method use by the Moore system to sell and advertise products.

Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al (U.S. 6,330,575).

As per claim 7, Moore does not expressly teach:

The method of claim 1, wherein the element for marketing is the banner ad concerning the first website, further comprising:

determining whether the banner ad for the first website has already been designed; and when it is determined that the banner ad for the first website has not yet been designed, displaying a message at the user interface indicating the necessity of designing the banner ad. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Moore would create and edit banner advertisements, and when it is determined that the banner ad for the first website has not yet been designed, displaying a message at the user interface indicating the necessity of designing the banner ad. There would be no purpose in creating a website if nobody knows that it exists.

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As per claim 8, Moore teaches:

The method of claim 7, further comprising, when it is determined that the banner ad for the first website has not yet been designed:

providing a first display region on the user interface, the first display region being capable of displaying a plurality of elements (see figure 9;

receiving a search request for available banner ad designs at the user interface (see column 8, lines 39-62; column 10, line 44 – column 11, line 15; figure 6);

performing a search of information concerning a plurality of available elements stored on a second database in response to the search request, wherein a search engine program performs the search (see column 10, line 44 – column 11, line 15);

displaying results of the search on the user interface (see figure 6); and

receiving a selection command at the user interface to select a first banner ad design from the results (see figure 6; column 10, line 44 – column 11, line 15).

As per claim 9, Moore teaches:

The method of claim 8, further comprising:

providing a second display region on the user interface, the second display region being capable of displaying the plurality of elements (see column 11, lines 50-60; figure 9);

displaying the first banner ad design in the second display region (see column 11, lines 50-60);

receiving a first command to modify the first banner ad design in the second display region (see column 11, lines 50-60);

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modifying the first banner ad design in response to the first command (see column 11, lines 50-60);

terminating the display of the second display region (see column 11, lines 50-60);

displaying the modified first banner ad design in the first display region, wherein the first display region is capable of displaying the first banner ad design in an interactive manner; and saving the modified first banner ad design (see column 11, lines 50-60).

As per claim 10, Moore teaches:

The method of claim 9, further comprising:

receiving at the user interface a command to preview the modified first banner ad design (see column 11, lines 50-60); and

providing a preview of the modified first banner ad design, wherein the preview allows for the display of all visual effects of the modified first banner ad design, and allows for the sounding of all sonic effects of the modified first banner ad design (see column 11, lines 50-60; figure 13).

As per claim 11, Moore teaches:

The method of claim 9, further comprising, prior to the saving of information concerning the modified first banner ad design:

displaying a prompt concerning payment (see column 12, lines 1-25);

receiving credit card processing information at the user interface and determining the adequacy of the credit card processing information (see column 6, lines 63-67).

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**Response to Arguments**

6. Applicant's arguments, filed 03/01/04, with respect to the rejection(s) of claim(s) 1-21 under Wexler have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Moore et al (U.S. 6,330,575).

**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

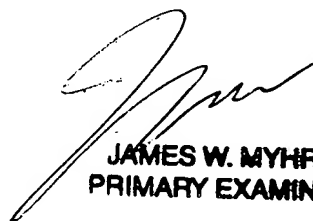
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra

August 16, 2004

  
JAMES W. MYHRE  
PRIMARY EXAMINER